

Town Response to the “Misconceptions vs. Facts” Document
Distributed by the ACRES Group
May 13, 2011

Assertion by ACRES #1: The cap is compromised and no longer functions adequately to protect humans, wildlife or the environment.

Town's response: If this were so, the Town would have been ordered to take immediate remedial action. In fact, samples have been analyzed from numerous groundwater test wells and surface water test locations in or near the landfill for many years. Fifteen groundwater wells and 6 surface water locations are tested for contaminants annually. The groundwater data are compared to drinking water standards in accordance with the Department of Environmental Protection requirements, and the surface water data are compared to surface water standards.

ACRES Response: The town provides a hypothetical DEP response. The ACRES group has DEP documents that show the landfill was never properly capped.

Town's further response: The Department of Environmental Protection noted in a letter that lead and cadmium levels were elevated near Hop Brook (2007). The Department of Environmental Protection letter stated that because the samples were analyzed for total metals (not dissolved), the results might be artificially high due to possible presence of sediment in the samples. In 2008 and 2010 sampling events, metals samples were filtered and analyzed for dissolved metals, and detected concentrations were significantly lower. In fact, most detected concentrations were below primary drinking water standards. Only two wells exceeded drinking water standards in 2010 (for lead and cadmium), but these wells are located west and northwest of the landfill. Neither well is anywhere near nor hydraulically connected to Amherst's public water supply wells. In addition, there has been no evidence of lead and cadmium impacts in sediment and surface water samples located near these wells. Amherst's drinking water supply wells located nearest to the landfill are located 1.5 miles to the southeast of the landfill. They are not contaminated, and since the groundwater under the landfill runs east to west from the landfill, they are safe. An older public water supply source, the Brickyard Well Field, was located 0.5 miles west of the landfill and was closed in 1980, BEFORE the landfill was capped. The Brickyard Well Field was located directly downgradient of the landfill, and was closed because:

- their shallow depths made them more susceptible to contamination;
- the design of the well field made it difficult to run; and
- low levels of volatile organic compounds (VOCs) were detected

ACRES Response: ACRES never said the drinking water is not safe now. However, there is a concern about the ongoing contamination and its influence on the aquifer. As shown in the DEP documents, the Brickyard well was closed because of the effects of the landfill leachate. The current levels of contamination at the Brickyard area greatly exceed the levels that caused closing of the well in 1980s.

Town's further response: Elevated metals were detected in sediment from the KC Trail wetland (arsenic and cadmium) and from the inlet of Gull Pond (arsenic). A focused risk characterization was performed to determine whether these levels posed a risk to human health. The risk characterization found a condition of No Significant Risk, and the Massachusetts Office of Research and Standards agreed with this finding in a review letter

dated May 18, 2009.

In addition, elevated mercury levels were detected in an unnamed wetland off Hop Brook Drive. For the purposes of a risk evaluation, this wetland is considered a forested wetland that is not readily accessible to the general public and was not considered a significant human health or public safety exposure risk.

Amherst has an extensive network of groundwater monitoring wells and surface water sample locations. They have been tested for decades for numerous parameters, and detected impacts are minimal. These results clearly demonstrate the cap is protecting the environment. As stated by the Department of Environmental Protection in their 2010 letter, the data and analysis indicated there were no significant risks to human health or public safety posed by the landfill.

ACRES Response: The town says there is no risk to the environment. However, the DEP document shows that the DEP did not evaluate the risk of harm either to the environment or to public welfare. The DEP evaluated only the risk of harm to human health for a very limited number of exposure scenarios.

Assertion by ACRES #2: Installation of a solar farm is larger and heavier than recreational uses rejected in the past and would prevent maintenance of the cap; the risks are greater than those posed by previous potential uses, which were rejected for reasons of susceptibility to damage from foot traffic and potential cap penetration by the creation of a bathroom or storage facility.

Town's response: The solar array will not be as heavy as creating soccer fields would have been. Soccer fields would have entailed 12-18 inches of sand over the landfill area used, a layer of top soil, pipes for irrigation, permanent parking spaces, moving vehicles, and 100 or more persons per day of play. Many vehicles moving on and off the site every play day would have been damaging. The best judge of whether our landfill can take the weight of the solar array is the Department of Environmental Protection. They have to give a permit for us to proceed with this project; they will determine if there is a risk to the safety of the cap. If the permit is granted, and the developer subsequently causes a problem to our cap, the contract will hold the developer responsible for any damage.

Maintenance and mowing does occur on the landfill now, and would continue if there are solar panels there. Landfills have solar panels in other communities – the cap will not be penetrated by their addition. Any alteration to placing the panels and inverters would be as permitted by the Department of Environmental Protection. Even after the contract is signed, the project is contingent on receiving all necessary permits; if the project can't meet the permitting requirements, it will not proceed.

ACRES Response: The Town insists that the recreational use of the landfill was abandoned due to the weight of the top soil, vehicular traffic, pipes for irrigation, etc. However, in the 2004 letter to DEP, Amherst's Superintendent of DPW Guilford Mooring does not mention any of these factors and uses the fact that the landfill cap would be penetrated by a restroom facility as the reason for not using the fields. Earlier DEP documents state that recreation use is not advised because the "cap is relatively thin and would be susceptible to serious damage from routine foot traffic or maintenance activities".

Assertion by ACRES #3: The electricity will not be free and savings would not be realized for 15-20 years.

Town's response: The fixed price that the Town would pay would be less than the current cost, thus generating savings from the start of power generation. While utility prices can be volatile in the short term, most industry analysts believe electricity prices will rise in the long-term

because of expensive distribution system investments needed by the utilities, and thus we can expect significant savings over the course of the contract – estimated to be as much as \$25 million over 30 years. Many of us sign a similar contract for home heating oil –agreeing to pay a fixed price over the year – on the assumption that we would rather pay that than probable increases in rates. In addition, the property taxes on the equipment – more than \$150,000 a year – will be a new source of Town revenue.

ACRES Response: The electricity will not be free and savings would not be realized for 15-20 years.

Assertion by ACRES #4: BlueWave and the partnering firms may not last as long as the contract, leaving the Town of Amherst liable for future project costs and risks, and insuring against that would decrease profit.

Town's response: No decommissioning bond or insurance is being required to cover the removal of the solar panels at the end of the project, leaving the Town at risk for disposal costs.

The contract is still being negotiated and WILL include insurance and a performance bond to protect the Town and its citizens. The project will only move forward if it is safe for our citizens and environment, and if it is financially profitable to the Town.

ACRES Response: BlueWave is a capital company that will use outside capital, hire contractors to perform the installation, and then be off to the next project as soon as the site is transferred to a power company for maintenance, as stated in the assertion.

Assertion by ACRES #5: No decommissioning bond or insurance is being required to cover the removal of the solar panels at the end of the project, leaving the Town at risk for disposal costs.

Town's response: The contract is still being negotiated and will hold the developer responsible for removal of the panels.

ACRES Response: The BlueWave's proposal states on page 26 that if the terms of the contract are changed to require a bond or insurance, it "would be reflected in a higher electricity cost to the Town", making the Assertion 3 even more incorrect.

Assertion by ACRES #6: The old landfill is too fragile for a solar project and could endanger the drinking water supply and the surrounding neighborhood – the project should go someplace else.

Town's response: The landfill is the largest expanse of Town-owned, open land suitable for solar power. It has always been the Town's option to find a safe and appropriate re-use of the capped landfill property. Please refer to section 1 for information about the safety of our drinking water supply.

ACRES Response: It is true it is the largest Town-owned open space, but is it the worst space for placing a large industrial photovoltaic installation. The Town does not substantiate its claims why this assertion is not true.

Assertion by ACRES #7: The old landfill site is an environmental problem; adding a solar array would increase the problem and hamper monitoring and remediation.

Town's response: The old landfill site is safe, and poses no threat to humans or the environment. The Department of Environmental Protection has strict standards for capped landfills and requires compliance. Monitoring and maintenance of the site will continue before, during and after the project in order to ensure continued safety. If the Department of Environmental Protection concludes that the solar project would endanger the safety of the cap or impede its monitoring and maintenance, they will not grant the permit to allow the project to proceed.

ACRES Response: According to the DEP documents, the condition of the cap is in violation of both the original 1985 DEP Closure Permit and the current standards, and DEP ignored these violations for 20 years.

Assertion by ACRES #8: Some old landfill sites, including ours, are unsuitable for solar projects; Longmeadow recently rejected a solar project on their old landfill

Town's response: Many other communities have decided on solar panels for their landfills. At the time the landfill was created, lining was not part of the process. Later the landfill was closed, subsequently capped, and the data cited above show that our drinking water is not endangered. Brickyard Well Field, a former water supply, was closed before the cap was put on and lies in the direction that water moves from the landfill; the Lawrence swamp is a mile away and not in that direction. The Department of Environmental Protection has consistently found the old landfill site to be safe; they have required monitoring and maintenance to ensure that safety, and they will continue to do so, with or without a solar array there. If they determine that a solar array risks compromising that safety, they will not allow the project to proceed.

ACRES Response: Longmeadow did reject the plans for solar installation on their landfill due to the concerns about the costs that would be required to improve the cap to “meet the requirements of a solar facility that are not present at other projects of this nature”, as stated in the Town of Longmeadow letter dated February 28, 2011. While some properly capped lined landfills may be considered for solar installations, our old, leaking and unlined landfill is not one of them.

ACRES Penultimate Assertion: The landfill doesn't meet DEP standards.

Town's response: The Department of Environmental Protection has consistently determined that the landfill is safe and is not a risk to humans, to the Town's drinking water supply or to the environment.

ACRES Response: According to the DEP documents, the old landfill does not meet DEP's own standards and requirements of the Closure Permit. DEP has ignored the violations and has not enforced its own regulations for the last 20 years.

ACRES Final Assertion: This project is moving too quickly, and isn't being given adequate consideration.

Town's response: This is not a new concept, and has been considered and discussed by the Town for several years. It is the second time that we have sought proposals for solar panels on that site. The first time, the opportunity was lost when the tax credits that made such projects possible were eliminated. New tax credits have given us a second chance, and we would like to seize this opportunity while it exists. This vote gives the Town Manager the ability to sign a long-term contract with BlueWave. The Select Board will review the contract. If we find concerns, we will ask for additional technical help. Approval of Article 24 enables us to move forward – to see if the Town can put together a solar project that is both profitable and responsible.

ACRES Response: The Town did not have any public discussions on the subject promised by the Town Manager at the April Meeting, which was the first time we found out about the planned installation. The Town did not provide any venues to discuss the issues associated with the project and have a two-way dialog.

The details of the 30-year Power Purchase Agreement are secret until the Town Manager signs it. Even if the Town cannot reveal all details of the Agreement and bid prices, it should be possible for the Town Manager to provide some overall information about the structure of the agreement without revealing the exact bid numbers that must be kept secret. By withholding all information, the Town prevents the public from any input on the financial merit and shortfalls of the 30-year arrangement.

LEGAL IMPLICATIONS OF THE STATE LANDFILL CAPPING GRANT

The Town used a State Grant to cover part of the 1988 landfill capping costs. The State Grant stipulated the following Project Eligibility Precondition and Deed Restriction:

- “a restrictive covenant imposed on the land on which the landfill to be closed ... limiting future use of such land to active or passive *recreational* use that will not threaten the public health, the environment, or the integrity of the cap”.
- The State Grant also required the Town to perform the closure in accordance with the DEP Closure Permit.

The Town agreed to both of the above listed preconditions in the final 1989 Grant Agreement. The 2004 letter from the Town's Superintendent of DPW, Guilford Mooring, reported compliance with the capping requirements, but noted that the first requirement was still not resolved and the Town is “interested in resolving this issue”.

Both of the above listed State Grant requirements are not fulfilled:

- The use of the landfill for a planned industrial solar array installation will be a violation of the State Grant.
- According to the DEP documents, the landfill was not capped in accordance with the DEP Closing Permit.

Prior to buying property next to the landfill, numerous residents were assured by Town officials that the site would be used *only* for recreational purposes as outlined in the State Grant.

Homes would not have been built on this location and children raised in such close proximity to a landfill without reassurances from the town that it was safe and would not be developed for anything other than recreation.

Recently, Mr. Mooring and local newspapers ridiculed the abutter's claims that any such assurances were given. At a meeting with the group in April, Mr. Mooring said that there were no restrictions on the use of the site.